

EXHIBIT G

SUMMONS AND COMPLAINT FILED IN
SUPREME COURT, COUNTY OF BRONX
WITH PROOFS OF FILING AND SERVICE

24433/04

SHAFAYETTE SAKIF, an infant by his parents
and natural guardians, SADIA BEGUM and
MOHAMMED UDDIN and SADIA BEGUM and
MOHAMMED UDDIN, individually,

Plaintiffs,

-against-

BRONX LEBANON HOSPITAL, LAWRENCE HAM, M.D.,
MARIA EMERSON, M.D., IRIS AMARANTE, M.D.,
DARA FORESTER, M.D. and MAURICIO SILVA, M.D.,

Defendants.

Plaintiffs designates
Bronx County as the
place of trial

The basis of the
Venue is the plaintiffs
residence

SUMMONS

Plaintiffs reside at:
1761 Eastburn Ave., Apt. 4C
Bronx, NY 10457-6915

To the above named Defendants:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to
serve a copy of your answer, or, if the complaint is not served with this summons, to serve
a notice of appearance, on the plaintiff's Attorneys within twenty (20) days after the service
of this summons, exclusive of the day of service (or within 30 days after the service is
complete if this summons is not personally delivered to you within the State of New York);
and in case of your failure to appear or answer, judgment will be taken against you by
default for the relief demanded in the complaint.

Dated: Lake Success, New York
October 22, 2004

Defendants' Addresses:

BRONX LEBANON HOSPITAL
1650 Grand Concourse
Bronx, NY 10457

MARIA EMERSON, M.D.
BRONX LEBANON HOSPITAL
1650 Grand Concourse
Bronx, NY 10457

LAWRENCE HAM, M.D.
BRONX LEBANON HOSPITAL
1650 Grand Concourse
Bronx, NY 10457

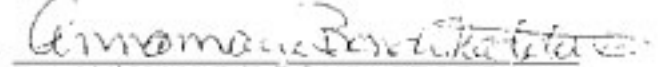
IRIS AMARANTE, M.D.
BRONX LEBANON HOSPITAL
1650 Grand Concourse
Bronx, NY 10457

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DARA FORESTER, M.D.
BRONX LEBANON HOSPITAL
1650 Grand Concourse
Bronx, NY 10457

MAURICIO SILVA, M.D.
BRONX LEBANON HOSPITAL
1650 Grand Concourse
Bronx, NY 10457

PEGALIS & ERICKSON, LLC



By: ANNAMARIE BONDI-STODDARD
Attorneys for Plaintiffs
1 Hollow Lane, Ste. 107
Lake Success, New York 11042
(516) 684-2900

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X Index No.

SHAFAYETTE SAKIF, an infant by his parents
and natural guardians, SADIA BEGUM and
MOHAMMED UDDIN, and SADIA BEGUM and
MOHAMMED UDDIN, individually,
Plaintiffs,

VERIFIED COMPLAINT

-against-

BRONX LEBANON HOSPITAL, LAWRENCE HAM, M.D.,
MARIA EMERSON, M.D., IRIS AMARANTE, M.D.,
DARA FORESTER, M.D. and MAURICIO SILVA, M.D.,

Defendants.

-----X

Plaintiffs, by their attorneys, PEGALIS & ERICKSON, LLC as and
for their Verified Complaint, respectfully alleges as follows upon
information and belief:

**AS AND FOR A FIRST CAUSE OF ACTION
ON BEHALF OF THE INFANT PLAINTIFF, SHAFAYETTE SAKIF:**

1. At all times hereinafter mentioned, the defendant, **BRONX LEBANON HOSPITAL**, was and still is a hospital corporation or other entity duly existing pursuant to the laws of the State of New York.
2. At all times hereinafter mentioned, the defendant, **LAWRENCE HAM, M.D.**, was and still is a medical doctor duly licensed to practice his profession in the State of New York.
3. At all times hereinafter mentioned, the defendant, **MARIA EMERSON, M.D.**, was and still is a medical doctor duly licensed to practice her profession in the State of New York.
4. At all times hereinafter mentioned, the defendant, **IRIS AMARANTE, M.D.**, was and still is a medical doctor duly licensed to

practice her profession in the State of New York.

5. At all times hereinafter mentioned, the defendant, **DARA FORESTER, M.D.**, was and still is a medical doctor duly licensed to practice her profession in the State of New York.

6. At all times hereinafter mentioned, the defendant, **MAURICIO SILVA, M.D.**, was and still is a medical doctor duly licensed to practice his profession in the State of New York.

7. At all times hereinafter mentioned, **SADIA BEGUM** and **MOHAMMED UDDIN**, are the parents and natural guardians of **SHAFAYETTE SAKIF**.

8. That on or about April 13, 2004, **SADIA BEGUM** gave birth to the infant plaintiff, **SHAFAYETTE SAKIF**, while under the care of the defendants herein.

9. That the aforesaid defendants, individually, jointly, and severally and through their agents, servants, employees and/or associates were careless and negligent in that they failed to adequately and properly diagnose, care for, treat and manage the prenatal course, the labor and delivery and post-delivery course, neonatal and pediatric care and treatment concerning such pregnancy and delivery and as such, the infant plaintiff, was allowed, caused and permitted to suffer severe and significant and irreparable injury and damage all of which was avoidable by the exercise of due and reasonable care on the part of the defendants herein without the infant plaintiff or the obstetrical mother being contributorily negligent thereto.

10. That by reason of the above premises, the amount of

damages sustained by the plaintiff in this action exceeds the jurisdictional limits of all lower Courts which would otherwise have jurisdiction over this action.

11. That by reason of the above premises, the infant plaintiff has sustained serious personal injury and pecuniary loss all to his damage in a substantial sum of money to be determined by a Court and jury.

**AS AND FOR A SECOND CAUSE OF ACTION
ON BEHALF OF THE INFANT PLAINTIFF, SHAFAYETTE SAKIF:**

12. The plaintiffs repeat, reiterate and reallege each and every allegation set forth in the First Cause of Action as if set forth in full herein.

13. That at no time were the plaintiffs or his parents ever advised, either orally or in writing, of the possible risks and dangers nor the possibility of permanent damage to the infant's body with regard to the care being rendered to both him and the infant plaintiff, nor were they ever advised that the infant may suffer severe or personal injuries and damages, and had the defendants or any of their agents, servants, employees and/or associates informed or advised the plaintiffs of the possible risks involved, the plaintiffs would not have been lulled into a false sense of security and would never have consented to the treatment rendered to the infant plaintiff and his obstetrical mother, all of which resulted in damage to the infant plaintiff herein.

14. That as a result of the foregoing, the infant plaintiff has been damaged in the amount and manner aforesaid in a

substantial sum of money to be determined by a Court and jury in excess of the jurisdictional limits of all lower Courts which would otherwise have jurisdiction over this action.

**AS AND FOR A THIRD CAUSE OF ACTION ON BEHALF OF
THE PLAINTIFFS, SADIA BEGUM AND MOHAMMED UDDIN:**

15. The plaintiffs repeat, reiterate and reallege each and every allegation set forth in the First Two Causes of Action as is set forth in full herein.

16. That by reason of the carelessness and negligence of the defendants, individually, jointly and severally and through their agents, servants, employees and/or associates, the plaintiffs, **SADIA BEGUM AND MOHAMMED UDDIN**, have been deprived of the services of the infant plaintiff, **SHAFAYETTE SAKIF**, and have been and will be obliged to expend sums of money for his medical care and treatment.

17. By reason of the foregoing, the plaintiffs, **SADIA BEGUM AND MOHAMMED UDDIN**, individually, have been damaged in a substantial sum of money to be determined by a Court and jury in excess of the jurisdictional limits of all lower Courts which would otherwise have jurisdiction over this action.

**AS AND FOR A FOURTH CAUSE OF ACTION ON BEHALF OF
THE PLAINTIFF, SADIA BEGUM, INDIVIDUALLY:**

15. The plaintiffs repeat, reiterate and reallege each and every allegation set forth in the First Three Causes of Action as is set forth in full herein.

16. That by reason of the carelessness and negligence of the defendants herein individually, jointly and severally and through their agents, servants, employees and/or associates, **SADIA BEGUM** was caused to sustain severe and significant emotional distress, injuries and damages as a result of the inappropriate and negligent medical care and treatment rendered to her and her infant at the time of his birth.

17. That by the reason of the foregoing, **SADIA BEGUM**, individually, has been damaged in a significant sum of money to be determined by a Court and Jury in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction over this matter.

WHEREFORE, the plaintiffs demand judgment of the defendants in the First Four Causes of Action in a substantial sum of money to be determined by a Court and jury, together with costs and disbursements of this action.

Dated: Lake Success, New York
October 20, 2004

Yours, etc.,

PEGALIS & ERICKSON, LLC
Attorneys for Plaintiff(s)
1 Hollow Lane
Lake Success, New York 11042
(516) 684-2900

ATTORNEY'S VERIFICATION

ANNAMARIE BONDI-STODDARD, an attorney duly admitted to practice law before the Courts of the State of New York, hereby affirms the following to be true under the penalties of perjury:

That deponent is the attorney of record for the Plaintiffs in the within action; that deponent has read the foregoing **VERIFIED COMPLAINT** and knows the contents thereof; that the same is true to deponent's own knowledge, except as to those matters therein stated to be alleged upon information and belief and that as to those matters deponent believes them to be true.

Deponent further states that the reason this Verification is made by deponent and not by Plaintiffs is that Plaintiffs do not reside in the county wherein deponent maintains her office.

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are the plaintiffs' various reports.

Dated: Lake Success, New York
October 22, 2004

Annamarie Bondi-Stoddard
ANNAMARIE BONDI-STODDARD

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X Index No.

SHAFAYETTE SAKIE, an infant by his parents
and natural guardians, SADIA BEGUM and
MOHAMMED UDDIN, and SADIA BEGUM and
MOHAMMED UDDIN, individually,

CERTIFICATE OF MERIT

Plaintiffs,

-against-

BRONX LEBRON HOSPITAL, LAWRENCE HAM, M.D.,
MARIA EMERSON, M.D., IRIS AMARANTE, M.D.,
DARA FORESTER, M.D. and MAURICIO SILVA, M.D.,

Defendants.

-----X

STATE OF NEW YORK)

ss:

COUNTY OF NASSAU)

ANNAMARIE BONDI-STODDARD, an attorney duly admitted to
practice before the Courts of the State of New York, deposes and
says:

1. That I am a member of the law firm of PEGALIS &
ERICKSON, LLC, attorneys of record for the plaintiffs in the above-
captioned matter. I am fully familiar with the facts and
circumstances of this matter by virtue of the file maintained by my
office.

2. That I have reviewed the facts of the case with a
physician who is duly licensed to practice medicine and who, I
believe, is knowledgeable in the relevant issues involved in the
case.

3. As a result of the aforementioned review, I have
concluded that there is a reasonable basis for the commencement of
this malpractice action.

Annamarie Bondi-Stoddard
ANNAMARIE BONDI-STODDARD

Sworn to before me this
22nd day of October, 2004.

Bonnie J. Christensen
NOTARY PUBLIC

BONNIE J. CHRISTENSEN
Notary Public, State of New York
No. 01546078118
Qualified in Nassau County
Commission Expires June 8, 2006

☐ that the within is a (certified) true copy of a
entered in the office of
the clerk of the within named Court on

☐ that an Order of which the within is a true copy
will be presented for settlement to the
Honorable one of
the judges of the within named Court, at
on
at

Dated: _____

PEGALIS & ERICKSON, LLC
Attorneys for Plaintiff(s)

1 HOLLOW LANE
SUITE 107
LAKE SUCCESS, NEW YORK 11042

Pursuant to 22 NYCRR 130-1.1, the undersigned, an
attorney admitted to practice in the courts of New York
State, certifies that, upon information and belief and
reasonable inquiry, the contentions contained in the
annexed document are not frivolous.

Dated: _____

Print name of signatory

PEGALIS & ERICKSON, LLC
Attorneys for Plaintiff(s)

1 HOLLOW LANE
SUITE 107
LAKE SUCCESS, NEW YORK 11042

To
Attorney(s) for

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

SHAFAYETTE SAKIF, an infant by his parents
and natural guardians, SADIA BEGUM and,
MOHAMMED UDDIN and SADIA BEGUM and
MOHAMMED UDDIN, individually,

Plaintiff(s),

- against -

BRONX LEBANON HOSPITAL, LAWRENCE HAM, M.D.,
MARIA EMERSON, M.D., IRIS AMARANTE, M.D.,
CARA FORESTER, M.D. and MAURICIO SILVA, M.D.

Defendant(s).

SUMMONS AND VERIFIED COMPLAINT

PEGALIS & ERICKSON, LLC
Attorneys for Plaintiff(s)

1 HOLLOW LANE
SUITE 107
LAKE SUCCESS, NEW YORK 11042
(516) 684-2900
(212) 517-9995
(718) 567-7171

To

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated: _____

Attorney(s) for

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
SHAFAYETTE SAKIF, an infant by his parents
and natural guardians, SADIA BEGUM and
MOHAMMED UDDIN and SADIA BEGUM and MOHAMMED
UDDIN, individually,

AFFIDAVIT
OF SERVICE

Plaintiffs,

-against-

BRONX LEBANON HOSPITAL, LAWRENCE HAM, M.D.,
MARIA EMERSON, M.D., IRIS AMARANTE, M.D.,
DARA FORESTER, M.D. and MAURICIO SILVA, M.D.

Index #
24433/04

Defendants.
-----X

STATE OF NEW YORK)
COUNTY OF SUFFOLK)ss.:

Cheryl B. Handlin being duly sworn, deposes and says:

That deponent is not a party to the within action
is over 18 years of age, and resides at Melville, New
York.

That on November 1, 2004 at about 1:10 p.m., at 1650
Sewlyn Avenue, Ste.3D, Bronx, New York, deponent served
a SUMMONS AND VERIFIED COMPLAINT on BRONX LEBANON
HOSPITAL, a defendant herein, by delivering a true copy
of same to ANNIE GARCIA, a secretary in risk management
thereat, who is of suitable age and discretion and
authorized to accept said legal service.

A description of Said Person is as Follows:
Age: 30 Height: 5'5" Skin Color: White
Sex: Female Weight: 135 Hair Color: Brown

Sworn to before me this
3rd Day of November, 2004.

Cheryl B. Handlin

Cheryl B. Handlin
Lic. #827240

Alison Odietus

Notary Public

ALISON ODIEUTUS
Notary Public, State of New York
No. 01006105130
Qualified in Suffolk County
Commission Expires February 2, 2007

COPY

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COUNTY CLERK
BRONX COUNTY

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----x
SHAFAYETTE SAKIF, an infant by his parents
and natural guardians, SADIA BEGUM and
MOHAMMED UDDIN and SADIA BEGUM and MOHAMMED
UDDIN, individually,

AFFIDAVIT
OF SERVICE

Plaintiffs,

-against-

BRONX LEBANON HOSPITAL, LAWRENCE HAM, M.D.,
MARIA EMERSON, M.D., IRIS AMARANTE, M.D.,
DARA FORESTER, M.D. and MAURICIO SILVA, M.D.
Defendants.

Index #
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-----x
STATE OF NEW YORK)
COUNTY OF SUFFOLK)ss.:

Cheryl B. Handlin being duly sworn, deposes and

That deponent is not a party to the within action
is over 18 years of age, and resides at Melville, New
York.

That on November 1, 2004 at about 1:10 p.m., at 1650
Sewlyn Avenue, Ste.3D, Bronx, New York, deponent served
a SUMMONS AND VERIFIED COMPLAINT on LAWRENCE HAM, M.D.,
a defendant herein, by delivering a true copy of same to
ANNIE GARCIA, a secretary in risk management thereat,
who is of suitable age and discretion and authorized to
accept said legal service. Within two days of said
legal service, deponent enclosed a true copy of same in
a post paid sealed wrapper, marked personal and
confidential, properly addressed to the defendant at the
aforementioned business address, and deposited same in a
post office, official depository, under the exclusive
care and custody of the United States Postal Service
within New York State.

A description of Said Person is as Follows:

Age: 30	Height: 5'5"	Skin Color: White
Sex: Female	Weight: 135	Hair Color: Brown

Cheryl B. Handlin

Sworn to before me this
3rd Day of November, 2004.

Cheryl B. Handlin
Lic. #827240

Alison Odietus

Notary Public

ALISON ODIETUS
Notary Public, State of New York
No. 01006105130
Qualified in Suffolk County
Commission Expires February 2, 2008

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COUNTY CLERK
BRONX COUNTY

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
SHAFAYETTE SAKIF, an infant by his parents
and natural guardians, SADIA BEGUM and
MOHAMMED UDDIN and SADIA BEGUM and MOHAMMED
UDDIN, individually,

AFFIDAVIT
OF SERVICE

Plaintiffs,

-against-

BRONX LEBANON HOSPITAL, LAWRENCE HAM, M.D.,
MARIA EMERSON, M.D., IRIS AMARANTE, M.D.,
DARA FORESTER, M.D. and MAURICIO SILVA, M.D.
Defendants.

Index #
24433/04

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STATE OF NEW YORK)
COUNTY OF SUFFOLK)ss.:

Cheryl B. Handlin being duly sworn, deposes and says:

That deponent is not a party to the within action,
is over 18 years of age, and resides at Melville, New
York.

That on November 1, 2004 at about 1:10 p.m., at 1650
Sewlyn Avenue, Ste.3D, Bronx, New York, deponent served
a SUMMONS AND VERIFIED COMPLAINT on MARIA EMERSON, M.D.,
a defendant herein, by delivering a true copy of same to
ANNIE GARCIA, a secretary in risk management thereat,
who is of suitable age and discretion and authorized to
accept said legal service. Within two days of said
legal service, deponent enclosed a true copy of same in
a post paid sealed wrapper, marked personal and
confidential, properly addressed to the defendant at the
aforementioned business address, and deposited same in a
post office, official depository, under the exclusive
care and custody of the United States Postal Service
within New York State.

A description of Said Person is as Follows:

Age: 30	Height: 5'5"	Skin Color: White
Sex: Female	Weight: 135	Hair Color: Brown

Cheryl B. Handlin

Cheryl B. Handlin
Lic. #827240

Sworn to before me this
3rd Day of November, 2004.

Alison Odieius

Notary Public

ALISON ODIEIUS
Notary Public, State of New York
No. 010D6105130
Qualified in Suffolk County
Commission Expires February 2, 2008

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----x
SHAFAYETTE SAKIF, an infant by his parents
and natural guardians, SADIA BEGUM and
MOHAMMED UDDIN and SADIA BEGUM and MOHAMMED
UDDIN, individually,

AFFIDAVIT
OF SERVICE

Plaintiffs,

-against-

BRONX LEBANON HOSPITAL, LAWRENCE HAM, M.D.,
MARIA EMERSON, M.D., IRIS AMARANTE, M.D.,
DARA FORESTER, M.D. and MAURICIO SILVA, M.D.
Defendants.

Index #
244330

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SUFFOLK COUNTY

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STATE OF NEW YORK)
COUNTY OF SUFFOLK)ss.:

Cheryl B. Handlin being duly sworn, deposes and says:

That deponent is not a party to the within action,
is over 18 years of age, and resides at Melville, New
York.

That on November 1, 2004 at about 1:10 p.m., at 1650
Sewlyn Avenue, Ste.3D, Bronx, New York, deponent served
a SUMMONS AND VERIFIED COMPLAINT on IRIS AMARANTE, M.D.,
a defendant herein, by delivering a true copy of same to
ANNIE GARCIA, a secretary in risk management thereat,
who is of suitable age and discretion and authorized to
accept said legal service. Within two days of said
legal service, deponent enclosed a true copy of same in
a post paid sealed wrapper, marked personal and
confidential, properly addressed to the defendant at the
aforementioned business address, and deposited same in a
post office, official depository, under the exclusive
care and custody of the United States Postal Service
within New York State.

A description of Said Person is as Follows:

Age: 30	Height: 5'5"	Skin Color: White
Sex: Female	Weight: 135	Hair Color: Brown

Cheryl B. Handlin

Sworn to before me this
3rd Day of November, 2004.

Cheryl B. Handlin
Lic. #827240

Alison Odietus

Notary Public

ALISON ODIETUS
Notary Public, State of New York
No. 01006105130
Qualified in Suffolk County
Commission Expires February 2, 2008

1000

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
SHAFAYETTE SAKIF, an infant by his parents
and natural guardians, SADIA BEGUM and
MOHAMMED UDDIN and SADIA BEGUM and MOHAMMED
UDDIN, individually,

AFFIDAVIT
OF SERVICE

Plaintiffs,

-against-

BRONX LEBANON HOSPITAL, LAWRENCE HAM, M.D.,
MARIA EMERSON, M.D., IRIS AMARANTE, M.D.,
DARA FORESTER, M.D. and MAURICIO SILVA, M.D.
Defendants.

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24438204

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STATE OF NEW YORK)
COUNTY OF SUFFOLK)ss.:

Cheryl B. Handlin being duly sworn, deposes and says:

That deponent is not a party to the within action,
is over 18 years of age, and resides at Melville, New
York.

That on November 1, 2004 at about 1:10 p.m., at 1650
Sewlyn Avenue, Ste.3D, Bronx, New York, deponent served
a SUMMONS AND VERIFIED COMPLAINT on DARA FORESTER, M.D.
a defendant herein, by delivering a true copy of same to
ANNIE GARCIA, a secretary in risk management thereat,
who is of suitable age and discretion and authorized to
accept said legal service. Within two days of said
legal service, deponent enclosed a true copy of same in
a post paid sealed wrapper, marked personal and
confidential, properly addressed to the defendant at the
aforementioned business address, and deposited same in a
post office, official depository, under the exclusive
care and custody of the United States Postal Service
within New York State.

A description of Said Person is as Follows:

Age: 30	Height: 5'5"	Skin Color: White
Sex: Female	Weight: 135	Hair Color: Brown

Cheryl B. Handlin

Sworn to before me this
3rd Day of November, 2004.

Cheryl B. Handlin
Lic. #827240

Alison Odietus

Notary Public

ALISON ODIETUS
Notary Public, State of New York
No. 01006105130
Qualified in Suffolk County
Commission Expires February 2, 2007

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
SHAFAYETTE SAKIF, an infant by his parents and natural guardians, SADIA BEGUM and MOHAMMED UDDIN and SADIA BEGUM and MOHAMMED UDDIN, individually,

Plaintiffs,

-against-

BRONX LEBANON HOSPITAL, LAWRENCE HAM, M.D., MARIA EMERSON, M.D., IRIS AMARANTE, M.D., DARA FORBSTER, M.D. and MAURICIO SILVA, M.D.
Defendants.

AFFIDAVIT
OF SERVICE

Index #
24433/04

-----X
STATE OF NEW YORK)
COUNTY OF SUFFOLK)ss.:

Cheryl B. Handlin being duly sworn, deposes and says:

That deponent is not a party to the within captioned case, is over 18 years of age, and resides at Melville, New York.

That on November 1, 2004 at about 1:10 p.m., at 1650 Sewlyn Avenue, Ste.3D, Bronx, New York, deponent served a SUMMONS AND VERIFIED COMPLAINT on MAURICIO SILVA, M.D. a defendant herein, by delivering a true copy of same to ANNIE GARCIA, a secretary in risk management thereat, who is of suitable age and discretion and authorized to accept said legal service. Within two days of said legal service, deponent enclosed a true copy of same in a post paid sealed wrapper, marked personal and confidential, properly addressed to the defendant at the aforementioned business address, and deposited same in a post office, official depository, under the exclusive care and custody of the United States Postal Service within New York State.

A description of Said Person is as Follows:

Age: 30 Height: 5'5" Skin Color: White
Sex: Female Weight: 135 Hair Color: Brown

Cheryl B. Handlin

Sworn to before me this
3rd Day of November, 2004.

Cheryl B. Handlin
Lic. #827240

Alison Odietus

Notary Public

ALISON ODIETUS
Notary Public, State of New York
No. 01006105130
Qualified in Suffolk County
Commission Expires February 2, 2012

copy

04 NOV -4 PM 1:02
BRONX COUNTY
CLERK

RECEIVED

EXHIBIT H

REQUEST FOR EXTENSION OF TIME
TO ANSWER ON BEHALF OF SUPREME COURT
DEFENDANTS, STIPULATIONS EXTENDING TIME
TO ANSWER SUPREME COURT SUMMONS AND
COMPLAINT, AND LETTER OF MEDICAL
LIABILITY MUTUAL INSURANCE COMPANY
DATED NOVEMBER 29, 2004



Medical Liability Mutual
Insurance Company

1302 New York, NY
Farming, NY
Syosset, NY
West Meadow, NY

Two Park Avenue • New York, NY 10016 • (212) 576-9800 • (800) 275-6564

www.mlmic.com

November 29, 2004

Larry Ham, M.D.
Bronx-Lebanon Hospital Center
Department of OB/GYN
1650 Grand Concourse
Bronx, New York 10457

RE: Shafayette Sakif, an infant by his parents and
natural guardians, Sadia Begum and
Mohammed Uddin and Sadia Begum and
Mohammed Uddin, individually vs.
Lawrence Ham, M.D.
Our File Number: 30125133

Dear Dr. Ham:

This will serve to acknowledge receipt of communication on November 15, 2004 from Lisa Bronikowski, Director of Risk Management at Bronx-Lebanon Hospital Center regarding the above-captioned matter. Ms. Bronikowski forwarded to our attention the Summons and Complaint that was received and accepted by Risk Management on your behalf on November 1, 2004. In addition, in her correspondence Ms. Bronikowski informed us that the matter had been forwarded to the Attorney General for certification for coverage under the Federal Tort Claims Act (FTCA).

Dr. Ham, we wish to advise that your policy of insurance with Medical Liability Mutual Insurance Company, # MP0517310 effective 1/1/04 to 7/1/04 contains a Part Time Coverage Endorsement "B", also effective 1/1/04 to 7/1/04 issued at your request, which reads "No insurance is provided hereby for the insured's other medical practice activity which is covered by other insurance. These activities excluded from coverage under this policy are: Professional activities under the scope of employment by Bronx Lebanon Hospital Center and its affiliate, The Martin Luther King, Jr. Health Center that is covered by the Federal Tort Claims Act."

Therefore allegations made in the Summons and Complaint that include negligent prenatal care, and negligent management of labor and delivery on April 13, 2004 at Bronx-Lebanon Hospital Center are not covered and there can be no indemnification under your professional liability policy with MLMIC.

Sakif vs. Ham
File # 30125133
November 29, 2004
Page 2

Dr. Ham we also wish to advise that subsequent to July 1, 1985 legislation made available excess professional liability insurance to physicians with hospital affiliations. If you have availed yourself of this coverage, you must notify your excess carrier immediately. Your failure to do so may jeopardize the availability of this excess coverage.

In light of the above, we are returning herewith the original Summons & Complaint and retaining a Xerox copy for our file.

By copy of this letter, MLMIC is advising all parties of our denial on coverage.

If you have any questions or comments, please do not hesitate to call.

Very truly yours,

Zoe Leonard
Senior Claims Examiner

/ZL

cc: Bronx Lebanon Hospital Center
Maria Emerson, M.D.
Iris Amarante, M.D.
Dara Forester, M.D. and
Mauricio Silva, M.D.
c/o Lisa Bronikowski, Dir. of Risk Mgmt.
1650 Selwyn Avenue, # 3D
Bronx, New York 10457

✓ Pegalis & Erickson, LLC
Attorneys for Plaintiffs
1 Hollow Lane, Suite 107
Lake Success, New York 11042



BRONX-LEBANON HOSPITAL CENTER

Mary E. Guarara, Esq.
718-960-1014

November 5, 2004

AnnaMarie Bondi-Stoddard Esq.
Pegalis & Erickson
1 Hollow Lane Ste 107
Lake Success, NY 11042

Re: Shafayette Sakif, an by his parents and natural guardians, Saia Begum and Mohammed Uddin & Sajia Begum & Mohammed Uddin, individually v. Bronx-Lebanon Hospital Center, Lawrence Ham MD, Maria Emerson MD, Iris Amaranite MD, Dara Forrester MD and Mauricio Silva MD

Index No. 24432/04

Dear Ms. Bondi Stoddard,

We would like to request an extension of time to answer on behalf of all of the defendants in this case. We would appreciate a 45 day extension from the date of this letter in order to respond to the Complaint in this action.

It is agreed that the defendants waive any affirmative defense based on lack of personal jurisdiction.

Please acknowledge your agreement to this extension of time by signing where indicated below and faxing a copy back to us at (718) 960-1082.

Please be advised that Bronx-Lebanon Hospital Center and Dr. Ham may be covered under the Federal Tort Claims Act. These defendants have been deemed to be employees of the Federal Government under section 224(h) of the Public Health Service Act, 42 U.S.C. 233(h) as amended by the Federally Supported Health Centers Assistance Act of 1995 (Pub. L. 104-73). Please call me to discuss this matter further at (718)960-1014.

Yours truly,

Mary E. Guarara
Risk Assessment Coordinator

AnnaMarie Bondi-Stoddard Esq.
Pegalis & Erickson

**Affiliated with Albert Einstein
College of Medicine**

1650 Grand Concourse
Bronx, New York 10457
Phone (718) 590-1600

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
SHAFAYETTE SAKIF, an infant by his parents
and natural guardians, SADIA BEGUM and
MOHAMMED UDDIN, and SADIA BEGUM and
MOHAMMED UDDIN, individually,

Plaintiffs,

INDEX NUMBER:
24433/04

-against-


BRONX LEBANON HOSPITAL, LAWRENCE HAM, M.D.,
MARIA EMERSON, M.D., IRIS AMARANTE, M.D.,
DARA FORESTER, M.D. and MAURICIO SILVA, M.D.,

Defendants.
-----X

IT IS HEREBY STIPULATED AND AGREED that defendants

BRONX LEBANON HOSPITAL, LAWRENCE HAM, M.D., MARIA EMERSON, M.D., IRIS
AMARANTE, M.D., DARA FORESTER, M.D. and MAURICIO SILVA, M.D. may have an
extension of time within which to appear, answer and/or move relative to the Summons and
Verified Complaints served in the above-entitled lawsuit up to and including March 7, 2005.
The affirmative defense of lack of personnel jurisdiction is waived.

Dated: Lake Success, New York
February 22, 2005



PEGALIS & ERICKSON, LLC
By: ANNAMARIE BONDI-STODDARD
Attorneys for Plaintiff
1 Hollow Lane,
Suite 107
Lake Success, New York 11042


DEPUTY CLERK OF THE COURT

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
SHAFAYETTE SAKIF, an infant by his parents
and natural guardians, SADIA BEGUM and
MOHAMMED UDDIN, and SADIA BEGUM and
MOHAMMED UDDIN, individually,

Plaintiffs,

INDEX NUMBER:
24433/04

-against-

BRONX LEBANON HOSPITAL, LAWRENCE HAM, M.D.,
MARIA EMERSON, M.D., IRIS AMARANTE, M.D.,
DARA FORESTER, M.D. and MAURICIO SILVA, M.D.,

Defendants.
-----X

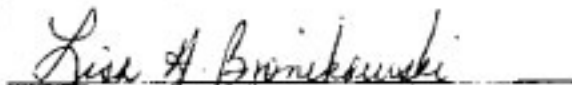
IT IS HEREBY STIPULATED AND AGREED that defendants

BRONX LEBANON HOSPITAL, LAWRENCE HAM, M.D., MARIA EMERSON, M.D., IRIS
AMARANTE, M.D., DARA FORESTER, M.D. and MAURICIO SILVA, M.D. may have an
extension of time within which to appear, answer and/or move relative to the Summons and
Verified Complaints served in the above-entitled lawsuit up to and including February 2005. The
affirmative defense of lack of personnel jurisdiction is waived.

Dated: Lake Success, New York
January 7, 2005



PEGALIS & ERICKSON, LLC
By: ANNAMARIE BONDI-STODDARD
Attorneys for Plaintiff
1 Hollow Lane,
Suite 107
Lake Success, New York 11042



BRONX LEBANON HOSPITAL,
LAWRENCE HAM, M.D.,
MARIA EMERSON, M.D.,
IRIS AMARANTE, M.D.,
DARA FORESTER, M.D. and
MAURICIO SILVA, M.D.,
By: Lisa Bronikowski

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
SHAFAYETTE SAKIF, an infant by his parents
and natural guardians, SADIA BEGUM and
MOHAMMED UDDIN, and SADIA BEGUM and
MOHAMMED UDDIN, individually,

Plaintiffs,

INDEX NUMBER:
24433/04

-against-

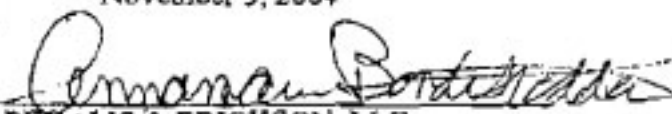
BRONX LEBANON HOSPITAL, LAWRENCE HAM, M.D.,
MARIA EMERSON, M.D., IRIS AMARANTE, M.D.,
DARA FORESTER, M.D. and MAURICIO SILVA, M.D.,

Defendants.
-----X

IT IS HEREBY STIPULATED AND AGREED that defendants

BRONX LEBANON HOSPITAL, LAWRENCE HAM, M.D., MARIA EMERSON, M.D., IRIS
AMARANTE, M.D., DARA FORESTER, M.D. and MAURICIO SILVA, M.D. may have an
extension of time within which to appear, answer and/or move relative to the Summons and
Verified Complaints served in the above-entitled lawsuit up to and including December 20, 2004.
The affirmative defense of lack of personnel jurisdiction is waived.

Dated: Lake Success, New York
November 5, 2004


PEGALIS & ERICKSON, LLC
By: ANNAMARIE BONDI-STODDARD
Attorneys for Plaintiff
1 Hollow Lane,
Suite 107
Lake Success, New York 11042

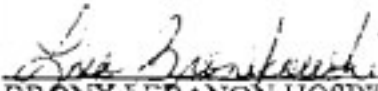

BRONX LEBANON HOSPITAL,
LAWRENCE HAM, M.D.,
MARIA EMERSON, M.D.,
IRIS AMARANTE, M.D.,
DARA FORESTER, M.D. and
MAURICIO SILVA, M.D.,
By: Mary E. Guarra, Risk Assessment Coordinator
Lisa Brenikowski
Director of Risk Management

EXHIBIT I

LETTER OF MATTHEW SCHWARTZ, ASSISTANT

UNITED STATES ATTORNEY

DATED APRIL 4, 2007

**U.S. Department of Justice**

*United States Attorney
Southern District of New York*

*86 Chambers Street, 31st Floor
New York, New York 10007*

April 4, 2007

BY FACSIMILE

Hon. Andrew J. Peck
United States Magistrate Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Suite 1370
New York, New York 10007
Facsimile: (212) 805-7933

Re: *Sakif, et al. v. United States*, No. 06 Civ. 2719 (AJP)

Dear Judge Peck:

This Office represents the defendant in the above-referenced medical malpractice action. I write in advance of tomorrow's status conference to preview an issue that the Government intends to raise.

As part of its continuing obligation to review the status of entities participating in the Public Health Service, the Department of Health and Human Services — specifically, the Health Resources and Service Administration (HRSA) — has today declined to certify as federal employees the Bronx-Lebanon Hospital Center personnel who treated plaintiffs, with the exception of the five doctors already certified and any other Bronx-Lebanon personnel who acted in facilities that received HRSA grant money (here, the Women's Health Clinic).¹ Moreover, with respect to the doctors already certified, HRSA will only defend conduct that took place within the Women's Health Clinic (*i.e.*, conduct undertaken in the scope of these doctors's federal employ). HRSA is notifying Bronx-Lebanon of its decision and will ask the hospital or its malpractice insurer to assume the representation of the non-certified personnel, as well as the certified personnel to the extent that they acted outside of their federal employment.

¹ The five doctors already certified are Iris Amarante, Maria Emerson, Dara Forester, Lawrence Ham, and Mauricio Silva — the five doctors originally named as defendants in plaintiffs's state court complaint. In addition, plaintiffs have so far deposed one other employee, Mary McCourtney, who provided treatment at the Women's Health Clinic.

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The implications of HRSA's decision on this case are several. First, this Office can no longer represent during discovery Bronx-Lebanon or its personnel (aside from the five certified doctors to the extent that they were acting within the scope of their federal employment and Ms. McCourtney). That means that new counsel must be retained to represent witnesses at depositions, and that this Office can no longer respond to document requests demanding papers in the hospital's possession.² More importantly, HRSA's decision has the effect of narrowing this suit (as presently pled, naming the United States as the sole defendant) to treatment provided at the Women's Health Clinic — in other words, prenatal care. If, in light of the discovery already conducted, plaintiffs believe that their claims encompass the actions of other Bronx-Lebanon employees or the actions of the five certified doctors taken outside of the Women's Health Clinic, those employees must be individually named as defendants.


Obviously, HRSA's decision complicates the conduct of this litigation, albeit unavoidably. In view of these developments, the Government respectfully requests that discovery be briefly stayed in this action so that (a) Bronx-Lebanon and its insurer can appear and (b) plaintiffs can decide whether to amend their complaint. Allowing Bronx-Lebanon or its insurer to enter the case now will allow the parties to resume discovery at the pace required by the initial scheduling order in this case after only a minimal interruption. Alternatively, if plaintiffs do not wish to pursue a theory of malpractice involving prenatal care, this case should be remanded to state court or, if plaintiffs prefer, dismissed without prejudice to the commencement of a new action in whatever court plaintiffs deem appropriate.

Thank you for your consideration.

Respectfully,

MICHAEL J. GARCIA
United States Attorney

By:


MATTHEW L. SCHWARTZ
Assistant United States Attorney
Telephone: (212) 637-1945
Facsimile: (212) 637-2750

² Document discovery was all but completed prior to HRSA's decision. In particular, we have produced to plaintiffs's counsel all medical records requested in Bronx-Lebanon's possession, custody, or control that could be located. The only outstanding document request, which we received on March 23, is for Bronx-Lebanon's neonatology manual.

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CC: BY FACSIMILE

Rhonda L. Meyer, Esq.
Pegalis & Erickson, LLC
Facsimile: (516) 684-2939